

AMENDMENT OF RULES FOR INSTITUTIONAL AND PROGRAM CERTIFICATION

Arkansas Code Annotated (ACA) §6-61-301, §6-2-107, §6-61-135, and §6-61-136 empower the Arkansas Higher Education Coordinating Board (Coordinating Board) to establish the criteria required for certification of non-public, for-profit, and out-of-state colleges and universities offering courses and degrees to Arkansans, and to create rules governing the operations of those institutions. To assist with these responsibilities, ACA §6-61-302 authorizes the Coordinating Board to appoint an advisory committee, known as the Institutional Certification Advisory Committee (ICAC). The Arkansas Department of Higher Education (ADHE) staff consults with the ICAC members on higher education policies, legislative issues, and public concerns to insure that certification rules (ICAC Rules) are implemented.

The ICAC Rules were adopted by the Coordinating Board in October 1975, and amended in 1987, 1995 and 2005. Most of the information from the 2005 ICAC Rules has been included in the proposed amendment, and has been organized in a manner that is more meaningful and useful for the institutions governed by the Rules. The existing notification and application forms will be modified as needed. The ICAC fees will not be increased.

The new language proposed for the policy amendment is in *italics and underlined*, and the existing language proposed for deletion is ~~struck through~~. Language included for clarification is in *italics*.

The ICAC Rules amendment addresses the following areas:

- Recognition of state and national certification activities and practices.
- Clarification of ICAC rules and processes already in place.
- Incorporation of recent legislation (Act 205 of 2011) related to institutional accreditation, accrediting agencies, and false academic credentials.

ADHE Executive Staff Recommendation

RESOLVED, That the Arkansas Higher Education Coordinating Board adopts the amendment of the Rules for Institutional and Program Certification (ICAC Rules) presented in this agenda item.

FURTHER RESOLVED, That by the adoption of the amendment, the Director of the Arkansas Department of Higher Education or designee is authorized to promulgate these ICAC Rules for implementation in 2013.

FURTHER RESOLVED, That the Director of the Arkansas Department of Higher Education or designee is authorized to develop and modify the ICAC application forms as needed, and to make administrative and technical changes and corrections when necessary to the Rules for Institutional and Program Certification.

ADHE must notify the ICAC and institutions offering courses/degrees certified or exempt from certification by the Coordinating Board of the administrative and technical changes and corrections to the ICAC Rules; and of the development and modification of ICAC application forms at least 30 days prior to the effective date.

DRAFT

RULES FOR INSTITUTIONAL AND PROGRAM CERTIFICATION**(ICAC RULES)****I. Authority**

The Arkansas Legislature granted authority to the Arkansas Higher Education Coordinating Board (AHECB) to provide for the orderly development of higher education and to protect Arkansas students from fraudulent or inferior programs. [Arkansas Code Annotated (ACA) §6-61-301, §6-61-302, §6-2-107, §6-61-135, and §6-61-136]

AHECB is authorized to establish the criteria for certification of college-level courses and degree programs offered by non-public, for-profit, and out-of-state institutions of higher education, and to provide oversight on matters related to the operation of the postsecondary educational institutions in Arkansas.

A non-public, for-profit, or out-of-state postsecondary educational institution offering courses/degree programs customarily offered in colleges and universities to Arkansans must obtain AHECB certification prior to offering those courses/degree programs.

An institution without AHECB certification offering a college-level course or degree program to students in Arkansas must cease and desist from operating in Arkansas until certified by AHECB. Any institution that fails to obtain required AHECB certification will be reported to the Consumer Protection Division of the Office of the Arkansas Attorney General. An individual or institution that operates in Arkansas without AHECB certification as required under ACA §6-61-301 shall be guilty of a Class B misdemeanor ~~may be subject to a misdemeanor charge and fines.~~

To assist AHECB with its certification responsibilities, ACA §6-61-302 directs AHECB to appoint an advisory committee known as the Institutional Certification Advisory Committee (ICAC). ICAC is made up of nine (9) members: six (6) chief administrators of postsecondary institutions in Arkansas, a representative of the Department of Career Education, and two residents of the state of Arkansas who are not officially affiliated with any postsecondary institution.

~~The ICAC works with the Arkansas Department of Higher Education (ADHE) to review applications for certification of institutions and college-level courses/degree programs and to make recommendations concerning certification to AHECB.~~

II. Institutional/Program Certification Process

Step 1 - An institution must submit a Letter of Intent signed by the chief academic officer of the institution. The Letter of Intent must be submitted to ADHE prior to submission of an application for certification.

Certification Period

Typically, certification for institutions and courses/degree programs is initially granted for two years. There is a three-year initial certification period for courses/degree programs, and a three-year certification period for planning and development for the establishment of a new institution or a branch campus location in Arkansas. Course/degree program recertification is required at the conclusion of the initial certification period and when subsequent periods of certification expire, and will be granted for a three-year period. The certification period will expire on December 31 of Year 3.

The three-year certification period will not be extended for institutional planning and development for a new Arkansas college/university or for an existing institution to locate a branch campus in Arkansas; therefore, a new institution or branch campus must be ready to apply for initial certification of courses/degree programs by the end of the institutional planning and development period.

Step 2 - The institution must submit an Application for Certification that includes information about the institutional *operations* and the proposed course/degree program. Submit the application and documentation in a Word file with a web link to the institution's current catalog to: ICAC@adhe.edu.

All institutions must contact the Arkansas State Board of Private Career Education (SBPCE) and apply for licensure, if required, prior to submitting a Letter of Notification to ADHE. SBPCE information may be found at www.sbpce.org, or by calling (501) 683-8000 (Appendix D).

~~Out-of-state~~ An institution requesting AHECB certification must provide documentation that the institution is 1) *accredited by an accrediting agency recognized by the United States Department of Education or Council on Higher Education Accreditation*; 2) ~~authorized certified or licensed~~ to operate as a postsecondary institution in its home state; and 3) *has documentation of home state approval and program accreditation for professional licensure programs*. An institution applying for institutional or program certification for the first time ~~should~~ must not advertise or operate in Arkansas until AHECB certification is granted.

Institutional Accreditation

Institutions seeking AHECB certification must hold accreditation from an accrediting agency recognized by the United States Department of Education or *Council on Higher Education Accreditation*. Institutions that present accreditation from entities

that are not recognized by the United States Department of Education or Council on Higher Education Accreditation will not be granted certification *or an exemption from certification* from the Arkansas Higher Education Coordinating Board.

ACA §6-61-136 states that an individual shall not establish or operate an accrediting agency in Arkansas without recognition by the United States Department of Education. An individual claiming to operate an accrediting agency in Arkansas or an entity representing itself as an accrediting agency in Arkansas that is not recognized by the United States Department of Education or Council on Higher Education Accreditation will be reported to the Consumer Protection Division of the Office of the Arkansas Attorney General.

An institution that does not offer associate degrees or above must contact the Arkansas State Board of Private Career Education (www.sbpce.org) about school licensure requirements for offering in Arkansas only non-credit courses, diplomas or certificates in vocational/occupational areas.

Application Review Process

Once the requesting institution has submitted an application to ADHE, the application will be reviewed by ADHE. Should ADHE determine that the institution has not submitted the required application and documentation, *the institution will be contacted and asked to submit the specified information within a defined time period.* ADHE review of the application will be suspended until all requested institutional information is submitted to ADHE which could delay the review of the application. Failure to submit the appropriate completed forms and the related fees by the established deadlines may result in no further consideration of the application for certification by ADHE or withdrawal of AHECB certification.

Review Team

If necessary, ADHE will select an independent review team of faculty and administrators who are knowledgeable of similar courses/degree programs or level of institution included in the certification application. The team will *read/review the application and/or visit the institution or proposed institutional location* as part of the review process.

ADHE will schedule a mutually convenient time for an on-site review of the courses/degree programs or the proposed institutional location by ADHE and the review team. Institutional representatives also could be required to meet with the review team at ADHE unless the staff determines that the review can be conducted by a telephone conference call.

ADHE staff will conduct the application/campus reviews with the review team submitting a written team report to ADHE that will be shared with the institution and the ICAC. The institution must submit to ADHE a written response to the review team report.

Course/Degree Review

The course/degree content and *minimum credit hours required* must be appropriate for the field of study and degree level. *The courses and degree plans must be approved in the institution's home state and there must be students currently enrolled in courses/degree programs in the home state or another state before AHECB certification is granted.*

All undergraduate degrees must include 1) *the home state required/approved general education core curriculum that is similar to the Arkansas minimum general education core curriculum or 2) the Arkansas minimum general education core curriculum. The institution must provide written documentation that the course/degree plan has been approved by the institution/trustees and/or the appropriate higher education/postsecondary and professional program agency in the home state.*

The AHECB has established assessment and course placement guidelines for student ability-to-benefit in associate and bachelor's degree programs. All institutions must provide a plan for assessment and course/degree placement for student success, For an entity applying for certification to establish or locate an institution in Arkansas, the AHECB or comparable assessment and placement guidelines must be used for student enrollment.

Professional degree programs for licensure/certification such as nursing, teacher education, psychology, and counseling must meet Arkansas state licensure/certification requirements to be granted AHECB certification.

There must be a sufficient number of faculty with the appropriate academic credentials and experience. The institution must provide documentation of adequate financial resources and instructional resources related to student academic support and success and for distance technology delivery.

ADHE Executive Staff Recommendation

Based on the results of the review, ~~the ICAG ADHE~~ may ask the institution and review team for more information regarding the course/degree program or new institution/branch campus application before making 1) a recommendation for program/institutional certification to AHECB, or 2) a recommendation to deny certification. An institution may elect to appeal the ~~decision of the ICAG ADHE Executive Staff Recommendation~~; however, the decision of the Arkansas Higher Education Coordinating Board is final.

Notification and Application Submission Timelines

AHECB will consider applications for certification at its quarterly meetings. The Letter of Intent is due on January 1, April 1, July 1, and October 1. Applications are due January 15, April 15, July 15, and October 15. A completed application, including all required documentation, must be submitted on or before the published

deadlines. Late applications, applications requiring additional review, or other time constraints may cause AHECB action to be delayed until the next review cycle.

Should a certified degree be modified with the changes exceeding 18 semester credit hours of the total credit hours of the degree program, a Letter of Notification with a description of the changes must be submitted to ADHE for review prior to the change. Degree changes of 18 semester credit hours or less must be submitted with a Letter of Notification *by the application deadlines listed above.*

Awarding of Academic Credential/Degree

Institutions may not award an *academic credential/degree* to any student unless demonstrated mastery of knowledge and skills has been documented. A degree may not be granted to any student solely for experiential learning or work experience. *The minimum criteria for college-level courses/degree programs, faculty/administrators, instructional resources, institutional accreditation, and state authorization/agency approvals required for AHECB certification are outlined in the Appendix section of the ICAC Rules; and these criteria must be met for initial and continued institutional and program certification by AHECB.*

ACA §6-61-135 defines False Academic Credential as a document that provides evidence or demonstrates completion of an academic or professional course of study at the postsecondary level that results in the awarding of a certificate, degree, or rank that is issued by an individual or that is not certified or exempt from certification under ACA §6-61-301.

A person who knowingly uses a false academic credential for the purpose of obtaining employment, a professional license, a job promotion, college admission, or a government position; or introduces oneself to others as having attained an academic title or a level of academic achievement may be convicted of a Class B misdemeanor and fined up to one thousand dollars (\$1,000.00).

III. Institutions Exempt from AHECB Certification

Non-public, not-for-profit colleges and universities currently incorporated and recognized by the Arkansas Higher Education Coordinating Board as Arkansas independent institutions of higher education, and operating under the applicable laws of this state shall not be required to receive certification from the Arkansas Higher Education Coordinating Board or to receive licensure from the Arkansas State Board of Private Career Education unless the institution fails to maintain accreditation from an accrediting agency recognized by the United States Department of Education or Council on Higher Education Accreditation.

Arkansas independent colleges and universities must contact ADHE prior to any change in the institution's charter or level of degree program. AHECB will consider all requests for changes in the name of the institution, institutional charter, or level of degree program offered.

A non-public, not-for-profit college or university recognized as an Arkansas independent institution of higher education that fails to maintain institutional accreditation must notify ADHE of its plan to cease operations in an orderly manner. Before institutional operations can resume, an application for certification for reinstatement of authority to grant degrees must be submitted to ADHE; and the AHECB must grant certification for institutional planning and development.

Institutions operated solely to provide programs of study in church-related training may be eligible for an exemption from certification. Programs offered by such institutions would specifically prepare students to assume leadership positions in the church and/or religious organization. Church-related training must be clearly labeled so that both the recipients of the training and persons evaluating the training are able to identify the nature and purpose of the program.

Because AHECB certification is required for college-level courses and degrees, each course/degree title for church-related training must include a religious modifier. The religious modifier must be placed on the title line of the degree, on the transcript, and whenever the title of the course/degree appears in official school documents/catalogs, or written/electronic publications.

Any degree title that has been approved by AHECB such as, but not limited to the Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, Master of Arts, Master of Science, Doctor of Philosophy, and Doctor of Education, **cannot** be used by institutions seeking an exemption from certification. The current list of AHECB approved degree titles is posted on the ADHE website.

Institutions offering college-level courses and degrees on military installations with a majority of student enrollments being active/retired military personnel or their dependents; institutions offering courses and degrees through the Southern Regional Education Board Electronic Campus or other recognized regional compacts; and institutions offering only non-academic, credit and non-credit programs for the specific purpose of avocational training and professional *development/preparation* may be exempt from certification. The definition of non-academic, avocational/professional preparation programs is included in the Appendix section of the ICAC Rules.

Exemption from Certification Process

Institutions seeking an Exemption from Certification must submit an Application for Exemption from Certification and provide required documentation. An institution applying for exemption from certification for the first time ~~should~~ *must* not advertise or operate *in Arkansas* until the Letter of Exemption from Certification is issued.

Once the requesting institution has submitted an application to ADHE, the application will be reviewed by ADHE. Should ADHE determine that the institution has not submitted the required application and documentation, *the institution will be*

contacted and asked to submit the specified information within a defined time period. ADHE review of the application will be suspended until all requested institutional information is submitted to ADHE which could delay the review of the application. Failure to submit the appropriate completed forms and the related fees by the established timelines may result in no further consideration of the application for exemption from certification by ADHE and AHECB.

If the institution meets exemption criteria, a Letter of Exemption from Certification will be issued for ~~two~~ three years. Upon expiration of the exemption from certification, the institution must submit an application for renewal of the exemption.

Institutions that do not meet exemption criteria or offer both non-academic programs such as church-related training and college-credit courses that lead to a degree that is customarily granted by colleges and universities must obtain institutional and course/degree program certification to continue operating in Arkansas.

AHECB may withdraw exemption status for proper cause. Such withdrawal will constitute a denial of exemption and require 1) a subsequent application for certification or 2) *a referral to the Consumer Protection Division of the Office of the Arkansas Attorney General for the discontinuation of institutional operations in Arkansas.*

IV. Fees

ADHE is entitled to recover administrative fees related to the certification and exemption process. These fees include a notification fee, a processing fee, and honorarium/travel expenses for the review team. All fees are non-refundable.

The notification fee must be submitted with (1) a Letter of Intent for certification, recertification, or decertification of established institutions to offer college-level courses/degree programs; (2) a Letter of Intent for the certification of a newly established college/university *or branch campus location* in Arkansas; (3) an Application for Exemption from Certification; and (4) a Letter of Notification regarding changes in the course/degree program or institutional operations.

The processing fee must be submitted with applications for certification or recertification of established institutions to offer college-level courses/degree programs, and with applications for certification of a newly established college/university or branch campus location in Arkansas.

Institutions applying for certification will be responsible for the honorarium and travel expenses of the review team *when a team is* assigned to review the certification application. The review team may make an on-site visit to the institution or institutional representatives of ~~out-of-state or distance-delivery~~ institutions may be required to meet with the review team at ADHE unless the ADHE staff determines

that the review can be conducted by telephone conference call or remote/electronic technology.

V. Bonds

In an effort to protect Arkansas students from financial hardship and loss due to the unexpected closure of an institution certified by the Arkansas Higher Education Coordinating Board, non-public, for-profit, and out-of-state postsecondary institutions certified to offer college-level courses/degree programs in Arkansas will be required to maintain a surety bond during operations in Arkansas.

VI. Forms

For the convenience of institutional employees responsible for preparing and submitting information to ADHE, new forms will be developed or existing forms will be modified as needed that should **must** be used to provide information for certification activities. The forms can be found in the Appendix section of the ICAC Rules.

VII. Implementation of ICAC Rules under Administrative Procedure Act

ADHE staff will *review* any proposed amendments to the ICAC Rules with the Institutional Certification Advisory Committee *and the institutions certified or exempt from certification under ACA 6-61-301* prior to making a recommendation to the Arkansas Higher Education Coordinating Board.

The Arkansas Higher Education Coordinating Board, ~~the Institutional Certification Advisory Committee~~, and the Arkansas Department of Higher Education will follow the provisions of the Administrative Procedure Act.

VIII. Questions about ICAC Rules

The Rules for Institutional and Program Certification (ICAC Rules) have been developed and *amended* to provide a clear, orderly process for the certification of established non-public, for-profit, or out-of-state postsecondary institutions offering college-level courses/degree programs in Arkansas; and for the creation of new non-public institutions in Arkansas, or for the establishment of a branch campus for an existing non-public, for-profit, or out-of-state institution seeking a location in Arkansas. ~~ADHE staff will recommend needed changes to the rules and regulations to ICAC and AHECB for approval.~~

Submit questions related to the certification process to:

ICAC
 Arkansas Department of Higher Education
 114 East Capitol Avenue
 Little Rock, AR 72201
 (501) 371-2000
ICAC@adhe.edu

IX. Institutional Certification Advisory Committee (ICAC)

The Institutional Certification Advisory Committee will meet annually at ADHE to discuss higher education policies, legislative issues, and institutional and public concerns. Based on institutional or public comments on courses/degree programs, ICAC questions, and/or ADHE findings, ADHE will determine if an ICAC meeting is necessary prior to the quarterly AHECB meeting and interested parties will be notified. If requested by ADHE, a representative of the institution applying for course/degree program certification must attend the ICAC meeting (via telephone) at which the application will be considered to respond to questions. At Following this meeting, ~~the ICAC~~ ADHE will either 1) make a recommendation in favor of for certification to the AHECB, 2) ask for more information regarding the course/degree program application, or 3) deny the application for certification. ~~Should~~ The institution *may* elect to appeal the ADHE Executive Staff Recommendation ~~decision of the ICAC.~~

Student Grievance Procedure

All institutions obtaining AHECB certification or exemption from certification must publish, post, and adhere to a procedure for handling a student grievance. The institutions must furnish an e-mail address or toll-free telephone number for quick access in filing a student grievance.

An institution with AHECB certification or exemption from certification must notify ADHE of all grievances from Arkansas students enrolled in courses/degrees that are certified or exempt from certification by AHECB. Before each AHECB meeting, ADHE will inform the ICAC of the disposition of student grievances.

The student grievance procedure with timeline is included in the Appendix section in the ICAC Rules.

X. Arkansas Higher Education Coordinating Board (AHECB)

The Arkansas Higher Education Coordinating Board meets four times annually and will consider the ADHE Executive Staff Recommendation for ICAC certification at each meeting.

AHECB Meeting Attendance

A representative of the institution requesting initial certification must *travel to Arkansas to attend the AHECB meeting at which the application will be presented, if the institution is submitting its first application for certification. Institutions with courses/degrees currently certified by AHECB are not required to attend subsequent AHECB meetings unless requested by ADHE or AHECB. Subsequent AHECB meeting attendance may be via remote/electronic technology unless the AHECB requests that the institution travel to Arkansas to attend the next AHECB meeting.* AHECB will act on the ADHE Executive Staff Recommendation for institutional and program certification presented by the ICAC and make the final decision.

Revocation of AHECB Certification/Exemption from Certification

The Arkansas Higher Education Coordinating Board shall, after giving a 30-day notice in writing to the institutional trustees to show cause why such action should not be taken, revoke any certification issued by AHECB whenever the Arkansas Higher Education Coordinating Board shall find, after proper investigation, that the institution is conferring degrees/diplomas without requiring sufficient work or is in violation of any of the provisions of the laws of Arkansas or ICAC Rules.

Appeal Process

Should the institution elect to appeal any decision of the Director of the Arkansas Higher Education Department, ~~the Institutional Certification Advisory Committee~~ or the Arkansas Higher Education Coordinating Board, a Letter of Appeal must be filed with ADHE within 30 days of the decision.